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Attorneys for Defendants
CITY OF SANTA ROSA; EDWIN FLINT, in his capacity
as Chief of Police for the CITY OF SANTA ROSA;
RICH CELLI, an individual and Officer of the
SANTA ROSA POLICE DEPARTMENT; TRAVIS MENKE,
an individual and Officer of the SANTA ROSA POLICE DEPARTMENT;
and PATRICIA MANN, an individual and Officer of the
SANTA ROSA POLICE DEPARTMENT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA DESANTIS, et al.,
Plaintiffs,

v.

CITY OF SANTA ROSA, et al.,
Defendants.

Case No.C 07-3386 JSW (consolidated with
C 07-4474)

**DEFENDANTS' OBJECTION TO
PETITION TO CERTIFY APPEAL AS
FRIVOLOUS**

[NOTICE OF APPEAL FILED]

Defendants hereby object to Plaintiffs' petition to certify Defendants' appeal as frivolous. If the court is not inclined to deny the petition peremptorily, Defendants hereby request that the court set the matter for briefing and hearing out of deference to the principle that qualified immunity is an entitlement not to stand trial that is effectively lost if a case is erroneously permitted to go to trial (*Mitchell v. Forsyth* 472 U.S. 511, 526; *Jeffers v. Gomez* 267 F.3d 895, 909).

Proceeding to trial with the pending appeal would operate to deny Defendants' their right to be heard. Defendants' counsel Fowler is traveling the week of November 24 for the Thanksgiving holiday, and is unavailable for any purpose that week. It is respectfully requested

1 that should the court order briefing and a hearing, the schedule should commence no earlier than
2 December 1, 2008.

3 Defendants have concurrently filed a Notice and Administrative Motion to Vacate Pre-
4 Trial Conference and Trial Dates.

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6 Respectfully submitted,

7 Dated: November 21, 2008

_____/s/
8 Caroline L. Fowler
9 City Attorney
10 Attorney for Defendants
11 City of Santa Rosa; Chief Edwin Flint; Sgt.
12 Rich Celli; Officer Travis Menke and Officer
13 Patricia Mann
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